

Remarks

This Amendment is in response to the Office Action dated **October 8, 2008**, wherein the Office: rejected claim 23 under 35 U.S.C. § 112, second paragraph, and rejected claims 1, 3, 8 – 24, 26 – 30, 33, 34 – 37, 40, and 44 – 45.

Applicants have amended claim 1. No new matter has been added.

The following comments are presented in the same order and with headings and paragraph numbers corresponding to those set forth in the Office Action.

Claim Rejections—35 U.S.C. § 112

4. The Office rejected claim 23 under 35 U.S.C. § 112, second paragraph, alleging the same to be indefinite. Applicants respectfully assert that claim 23, which recites, “The assembly of claim 1 wherein the backbone is at least one wire” is not indefinite. At page 2, lines 9 – 15, the application states

For example a stent may be formed by etching or cutting the stent pattern from a tube or sheet of stent material; a sheet of stent material may be cut or etched according to a desired stent pattern whereupon the sheet may be rolled or otherwise formed into the desired substantially tubular, bifurcated or other shape of the stent; one or more wires or ribbons of stent material may be **woven, braided** or otherwise formed into a desired shape and pattern.
(Emphasis added.)

In other words, the “single strut” referred to in claim 1 may be comprised of one or more wires if the strut is comprised of woven or braided wires. As such, Applicants submit that the phrase “wherein the backbone is at least one wire” is accurate and not indefinite. Applicants request that the rejection be removed.

Claim Rejections—35 U.S.C. § 103

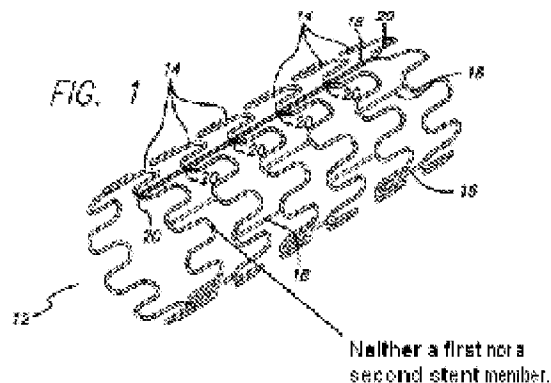
6. – 15. The Office rejected claims 1, 20 – 24, 26 – 30, and 33 under 35 U.S.C. § 103(a), alleging the same to be unpatentable over U.S. Patent No. 6,585,757 to Callol (hereafter “Callol”) in view of U.S. Patent No. 6,428,570 to Globerman (hereafter “Globerman”).

The asserted combination of Callol and Globerman fails to teach or suggest all the elements of amended claim 1. Claim 1 recites,

a plurality of interconnected stent members, the stent members consisting of first stent members and second stent members, each of the first stent members being oriented in a substantially longitudinal direction in the unexpanded state and the expanded state, each of the second stent members being oriented in a substantially longitudinal direction in the unexpanded state and being oriented in a substantially circumferential direction in the expanded state...
(Emphasis added)

In other words, when the stent is in the unexpanded state, the stent consists of first and second stent members such that both the first and second stent members are oriented in a substantially longitudinal direction.

As noted in the Office Action, Callol discloses a stent that includes stent members *in addition to* the first and second stent members oriented in a substantially longitudinal direction. The Office specifically emphasized that it is equating “the straight portion of 14” with the second stent members recited in claim 1. As seen immediately below in an *annotated version* of FIG. 1 of Callol, the curved portions of the rings 14 that connect “the straight portion[s] of 14” are neither first nor second stent members, as in claim 1, because they are not oriented in a substantially longitudinal direction in the unexpanded state:



As such, regardless of what is allegedly disclosed in Globerman, the combination fails to disclose a stent that consists of first and second stent members such that both the first and second stent members are oriented in a substantially longitudinal direction when the stent is in the unexpanded state, as in claim 1. To that end, claim 1 is non-obvious over the asserted combination of Callol

and Globerman.

Claims 20 – 24, 26 – 30, and 33 depend from claim 1 and as such are also non-obvious over the asserted combination of Callol and Globerman. Applicants respectfully request that the rejection be removed and that claim 1, 20 – 24, 26 – 30, and 33 be allowed.

16. – 25. The Office rejected claims 1, 3, 20, 23, 24, 26 – 28, 30, 33, and 40 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,102,943 to McGuinness (hereafter “McGuinness”) in view of Globerman.

The purported combination of McGuinness and Globerman fails to teach or suggest all the elements of amended claim 1. Claim 1 recites,

a plurality of interconnected stent members, the stent members consisting of first stent members and second stent members, each of the first stent members being oriented in a substantially longitudinal direction in the unexpanded state and the expanded state, each of the second stent members being oriented in a substantially longitudinal direction in the unexpanded state and being oriented in a substantially circumferential direction in the expanded state...
(Emphasis added)

In other words, when the stent is in the unexpanded state, the stent consists of first and second stent members such that both the first and second stent members are oriented in a substantially longitudinal direction.

As noted in the Office Action, McGuinness discloses a stent that includes stent members *in addition to* first and second stent members oriented in a substantially longitudinal direction. The Office specifically emphasized that it is equating “the straight portion of 28” with the second stent members recited in claim 1. As seen immediately below in the *annotated version* of FIG. 1A of McGuinness, the curved portions 34 that connect “the straight portion[s] of 28”, or legs 32, are neither first nor second stent members, as in claim 1, because they are not oriented in a substantially longitudinal direction in the unexpanded state:

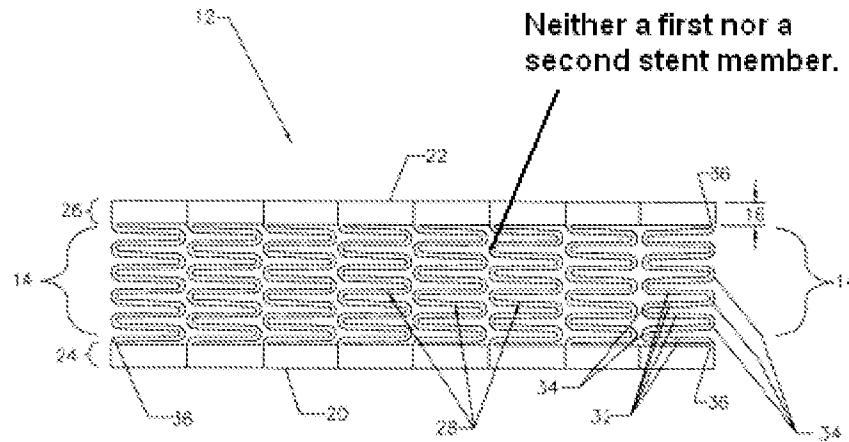


FIG. 1A

As such, regardless of what is allegedly disclosed in Globerman, the combination fails to disclose a stent that consists of first and second stent members such that both the first and second stent members are oriented in a substantially longitudinal direction when the stent is in the unexpanded state, as in claim 1. To that end, claim 1 is non-obvious over the asserted combination of McGuinness and Globerman.

Claims 3, 20, 23 – 24, 26 – 28, 30, 33, and 40 depend from claim 1 and as such are also non-obvious over the asserted combination of Callol and Globerman. Applicants respectfully request that the rejection be removed and that claim 1, 3, 20, 23 – 24, 26 – 28, 30, 33, and 40 be allowed.

26. – 29. The Office rejected claims 8 – 11, 13 – 15, and 34 – 37 under 35 U.S.C. § 103(a) as being unpatentable over Callol in view of Globerman and further in view of U.S. Patent No. 6,165,178 to Bashiri et al. (hereafter “Bashiri”).

As argued above, claim 1 is non-obvious over the asserted combination of Callol and Globerman. Claims 8 – 11, 13 – 15, and 34 – 37 incorporate all the subject matter of claim 1 and add additional subject matter. The addition of any alleged knowledge by those of ordinary skill in the art or any alleged teachings in Bashiri does nothing to remedy the deficiencies of the Callol and Globerman combination. As such, claims 8 – 11, 13 – 15, and 34 – 37 are non-obvious over Callol in view of Globerman and further in view of Bashiri. Applicants request that the

rejection be removed and that claims 8 – 11, 13 – 15, and 34 – 37 be allowed.

30. – 31. The Office rejected claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Callol in view of Globerman and further in view of Bashiri and further in view of U.S. Patent No. 6,699,280 to Camrud et al. (hereafter “Camrud”).

As argued above, claim 1 is non-obvious over the asserted combination of Callol and Globerman. Claim 12 incorporates all the subject matter of claim 1 and adds additional subject matter. Whether or not it would have been obvious for a person having ordinary skill in the art to take any alleged teachings in Camrud of bioabsorbable connection forming a severable connection and substitute any alleged teachings in Bashiri of electrolytic detachment sites does nothing to remedy the deficiencies of the Callol and Globerman combination. As such, claim 12 is non-obvious over Callol in view of Globerman and further in view of Bashiri and Camrud. Applicants request that the rejection be removed and that claim 12 be allowed.

32. – 35. The Office rejected claims 16 – 19, 44, and 45 under 35 U.S.C. § 103(a) as being unpatentable over Callol in view of McGuinness and further in view of Bashiri and U.S. Patent No. 5,702,418 to Ravenscroft (hereafter “Ravenscroft”).

As argued above, claim 1 is non-obvious over the asserted combination of Callol and McGuinness. Claims 16 – 19, 44, and 45 incorporate all the subject matter of claim 1 and add additional subject matter. Regardless of what is allegedly taught in Bashiri or Ravenscroft, the addition of those teachings does nothing to remedy the deficiencies of the Callol and McGuinness combination. As such, claims 16 – 19, 44, and 45 are non-obvious over Callol in view of McGuinness and further in view of Bashiri and Ravenscroft. Applicants request that the rejection be removed and that claim 16 – 19, 44, and 45 be allowed.

Conclusion

For at least the reasons presented above, Applicants submit that the present application is in condition for allowance. Early action and favorable consideration are solicited earnestly.

Should the Examiner have any questions with respect to the Amendment, the Examiner is invited to contact the Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

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